

HIGH COURT OF GUJARAT AT AHMEDABAD

MISC. CIVIL APPLICATION NO.1724 OF 1993.

Date of decision:14.11.1995.

For approval and signature

The Honourable Mr. Justice S.M. Soni

and

The Honourable Mr. Justice R.R.Jain

Mr. Prashant G. Desai, advocate for the petitioner.

Mr. P.S. Champenari, A.G.P. for respondents.

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.M.Soni & R.R.Jain, JJ.

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November 14, 1995.

Oral judgment (Per Soni, J.)

Petitioner has filed this application for necessary action against the respondents under the Contempt of Courts Act. It is alleged by the petitioner that the respondents have not complied with the order of this Court (Coram: M.S.Parikh, J>) dated August 25, 1993.

On issuance of rule, on behalf of respondent Nos.1, 2 and 4, one Srinivas Katikithala, Deputy Secretary, Health and Family Welfare Department, has filed affidavit in reply. In para 4 of the said affidavit, it is stated that L.P.A. is filed and is pending admission hearing. In view of these facts which are not controverted by affidavit in rejoinder, the impugned order of which the breach is alleged, cannot be said to be a final one and it can be said that disobedience of the order which is appealed against, cannot be said to be a wilful one.

In view of these facts, case of the petitioner does not fall within clause (b) of Section 2 of the Contempt of the Courts Act.

In view of these facts, the petition is not maintainable and is liable to be dismissed. Hence, the petition is dismissed. Rule discharged. No costs.